UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/729,757	12/05/2003	Jeffrey Lewis Powers		3203

7590 02/28/2006

Dennis W. Davis
2202 East Washington Avenue
Eustis, FL 32726

EXAMINER	
CHAPMAN, GINGER T	
ART UNIT	PAPER NUMBER
3761	

DATE MAILED: 02/28/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/729,757	POWERS ET AL.	
	Examiner	Art Unit	
	Ginger T. Chapman	3761	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *19 December 2005*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *58-71* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *58-71* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *05 December 2003* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Status of the claims

Claims 1-58 are cancelled; claims 59-71 are added by way of Applicants' amendment filed December 19, 2005.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

The factual inquiries set forth in *Graham* **v.** *John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 59, 60, 64, 65 and 67 are rejected under 35 U.S.C. 102(b) as being anticipated by Villaveces (US 5,927,548).

With respect to claim 59, as best depicted in Figure 19, Villaveces discloses an extremity-attachable device (90) for storing and discharging skin treatment material (col. 3. l. 32) comprising a reservoir (94) containing skin treatment material (col. 6, ll. 15); squeeze actuation means (col. 6, l. 52); dispensing outlet means (104); extremity attachment means (Figs. 20 and 22: 119, 120); flow control means (col. 6, ll. 51-59) further comprising air flow control means (106) and skin treatment flow control means (104).

With respect to claim 60, Villaveces discloses air flow control means (fig. 19) comprising a pathway (106) for the dedicated purpose of air flow introduction into the reservoir (94), the introduced air serving as a working fluid upon dispensing of skin treatment material (col. 6, l54-57).

With respect to claim 64, as best depicted in Figure 7, Villaveces discloses the device which includes: a pump chamber (36); a piston (40); and a return spring (46) (col. 4, ll. 21-44).

With respect to claim 65, as best depicted in Figure 10, Villaveces discloses the reservoir (72-78) comprises a deformable chamber (col. 5, l. 42) and squeeze actuation means comprises compressive deformation of the reservoir resulting in dispensing of skin treatment material from dispensing outlet means (78') (col. 5, ll. 32-42).

With respect to claim 67, Villaveces discloses the device is removably attached to the attachment means (col. 7, ll. 21-29).

Claims 61-63 are rejected under 35 U.S.C. 103(a) as being unpatentable over Villaveces in view of Gortz (Re 35,187).

With respect to claims 61 and 63, Villaveces discloses air flow control means but does not expressly disclose a valve comprising check valve means. Gortz teaches valves. In particular, Gortz teaches an analogous dispenser useful for flowable products of various viscosities such as skin treatment materials (col. 3, line 8 and line 36). As depicted in Figures 2 and 3, the dispenser (5) includes flow control means comprising a valve means (40) which may be a one-way valve such as a check valve (col. 6, lines 56-58). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have utilized the check valve as taught by Gortz for dispensing material through the dispensing outlet of Villaveces thus preventing leakage by controlling the flow of liquids by allowing the fluid being dispensed to flow in one direction only and the selection of any of these check valves would be within the level of ordinary skill in the art.

With respect to claim 62, Villaveces discloses an internal bladder (col. 7, ll. 15-19) but does not expressly disclose air flow control means preventing air entry into the volume of skin treatment material. Gortz teaches that it is known in the dispensing art to utilize a resilient internal bladder in a positive-pressure dispensing device for segregating an air volume internal to the dispenser from the volume of the treatment material contained within the device in order to provide motive force to dispense fluid through the valve thus allowing the fluid to be dispensed whether the squeeze dispenser is held upright or inverted. Therefore, to have utilized the internal bladder of Gortz in the dispenser of Villaveces would have been obvious to one having ordinary skill in the art at the time the invention was made since Gortz teaches at col. 1, line 49 that such a modification would provide constant flow characteristics of the fluid to be dispensed.

Claims 66 and 68 are rejected under 35 U.S.C. 103(a) as being unpatentable over Villaveces in view Luke (US 4,058,237).

With respect to claims 66, and 68, Villaveces discloses the device substantially as claimed but does not disclose adjusting the character of the dispensed material flow from streaming flow to spray where the dispensing outlet means comprises adjustable nozzle means. As depicted in Figure 1, Luke discloses a device (1) wherein the flow of fluid through the outlet (14) and nozzle (5) is controlled by valve (16) and biased control knob (3) such that turning control knob (3) adjusts the jet stream to or from a spray of protective fluid from nozzle (5) (col. 2, lines 46-47). Luke discloses at column 2, line 68 that this provides a directionally controlled stream or spray thus disclosing the desire for the stream or spray to be directionally controlled. Therefore, to have utilized the adjustable nozzle of Luke in the dispensing outlet of Villaveces in order to allow the user of the dispenser to select an output flow that is either streaming or spraying would have been obvious to one having ordinary skill in the art at the time the invention was made.

Claim 70 is rejected under 35 U.S.C. 103(a) as being unpatentable over Villaveces in view of Deering (US 5,815,467).

With respect to claim 70, Villaveces discloses the device but fails to disclose a watch. As seen in Figure 1, Deering teaches a device having a watch (fig. 1; col. 2, lines 16-17). Deering, at column 1, lines 34-36, teaches the ability of a dispenser to be worn on the wrist and appear to be a watch from a distance and in fact act as a watch thus expressing the desire for the dispenser to appear and act as a watch thereby allowing the user of the dispenser to wear the dispenser in a casual manner such that to the casual observer the dispenser would appear to be an ordinary wrist

watch. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to form the wrist-worn embodiment of Villaveces having a watch as taught by Deering in order to provide a dispenser that can be worn on the wrist and acts as a watch in order to allow the user to wear the dispenser in an undetected manner.

Claims 69 and 71 are rejected under 35 U.S.C. 103(a) as being unpatentable over Villaveces in view of Harrigan (US 4,768,688).

With respect to claims 69 and 71, Villaveces discloses the device but fails to teach where the attachment means contains the fluid such that squeezing the attachment means can dispense the fluid, thus Villaveces discloses the claimed invention except for the location of the fluid chamber and a cap removably covering the dispensing outlet. As depicted in Figures 6 and 7, Harrigan discloses a dispenser in the form of a resilient tubular body (110) worn about the user's wrist or ankle and having a cap (119, 126) wherein the interior of the bracelet forms a chamber (24) for receiving, storing and dispensing suntan lotion fluid. Harrigan teaches at column 1, lines 35-38 the desirability of allowing the user of the dispenser to carry skin treatment material on their wrist in the interior of a plastic bracelet without the burden of carrying jars, tubes or bottles. Harrigan further teaches at column 2, lines 10-11 the ability of a cap to close the dispensing outlet thus expressing the desire to close the dispensing outlet. Accordingly, to locate the fluid reservoir of Villaveces in the body of the attachment as taught by Harrigan in order to allow the user of the device to dispense fluid by squeezing the resilient tube while applying slippery or viscous fluid to their fingers and having a cap to close the dispensing outlet to prevent further dispensing of fluid would have been obvious to one having ordinary skill in the art at the time the

time the invention was made since it has been held that rearranging parts of an invention involves only routine skill in the art.

Response to Arguments

Applicant has not presented any rebuttal to prior art rejections; therefore there is no response to arguments. Applicant should submit an argument under the heading "Remarks" pointing out disagreements with the examiner's contentions. Applicant must also discuss the references applied against the claims, explaining how the claims avoid the references or distinguish from them.

Conclusion

Applicant's amendment necessitated the new grounds of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ginger T. Chapman whose telephone number is (571) 272-4934. The examiner can normally be reached on Monday through Friday 8:30 a.m. to 5:00 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tatyana Zalukaeva can be reached on (571) 272-1115. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Ginger Chapman
Examiner, Art Unit 3761
02/17/06

***

TATYANA ZALUKAEVA
SUPERVISORY PRIMARY EXAMINER